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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,437	02/07/2002	Richard D. Stroman	524-78487-01	4127
24197 7590 09/05/2008 KLARQUIST SPARKMAN, LLP 121 SW SALMON STREET SUITE 1600 PORTLAND, OR 97204				
EXAMINER NEWTON, JARED W				
ART UNIT 3693		PAPER NUMBER		
MAIL DATE 09/05/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/071,437

Applicant(s)

STROMAN ET AL.

Examiner

JARED W. NEWTON

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 41-51, 53-55, 215, 218, 223-225, 227, 228 and 235-243 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 41-51, 53-55, 215, 218, 223-225, 227, 228 and 235-243 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-848)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 7/18/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This final rejection is in reply to the remarks filed June 5, 2008, by which claims 1, 3, 41, 215, 223, 225, 227, and 228 were amended, claims 5-40, 52, 56-214, 216, 217, 219-222, 226, and 229-234 were canceled, and claims 235-243 were added.

Claims 1-4, 41-51, 53-55, 215, 218, 223-225, 227, 228, and 235-243 are pending.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on July 18, 2008 was filed after the mailing date of the Non Final Rejection on December 6, 2007. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 235-243 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In response to this rejection, Applicant should

cancel the noted claims, or provide support for their limitations by indicating the claimed subject matter in the original disclosure.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 41-51, 53-55, and 235-243 are rejected under 35 U.S.C. 102(b) as being anticipate by US Patent No. 6,000,361 to Pratt (hereafter Pratt).

In regard to claim 1, Pratt discloses a system and method for managing a plurality of animals comprising:

electronically detecting and identifying each of said plurality of animals (see col. 11, lines 11-36);

collecting information on said plurality of animals in a database with sensing devices, wherein at least a portion of said collection occurs automatically (see col. 6, lines 34-52) and is based, at least in part, on said electronic detection (see col. 12, lines 22-28; col. 31, lines 26-32);

processing at least a portion of said collected information (see col. 15, lines 16-32);

providing access to said collected and processed information in said database, said user managing said plurality of animals based, at least in part, on said accessed data (see col. 6, lines 34-52); and

providing at least a portion of said collected information to one or more components configured to perform benchmarking of the provided information (see Id; col. 20, lines 39-56; Fig. 30).

In regard to claim 2, Pratt further discloses providing access to a second user when said second user purchases a plurality of animals (see col. 7, lines 53-62).

In regard to claim 3, Pratt discloses the system and method set forth above, wherein said system comprises:

- a server ("host computer" —see col. 11, lines 31-37);
- a plurality of computers coupled to said server (see col. 9, lines 33-39);
- a central database coupled to said server (see col. 31, lines 26-32);
- a plurality of electronic devices ("EIDs") coupled to at least a plurality of computers that are capable of detecting and identifying a plurality of animals (see col. 11, lines 11-36); wherein the server is configured to carryout the limitations noted in the rejection of claim 1 above; and

wherein said server is configured to provide to said user benchmarking data based on at least a portion of said collected information (see col. 6, lines 34-52).

In regard to claim 4, Pratt discloses the server as configured to provide access to a second user when said second user purchases a plurality of animals (see col. 7, lines 53-62).

In regard to claim 41, the method of Pratt as disclosed in the rejection of claim 1 anticipates the limitations of claim 41.

In regard to claim 42, the method of Pratt as disclosed in the rejection of claim 2 anticipates the limitations of claim 42.

In regard to claims 43 and 54, Pratt further discloses the operation of an ultrasound device (see col. 7, lines 6-16).

In regard to claims 44 and 55, Pratt further discloses the operation of an image capture device (see id.).

In regard to claim 45, Pratt further discloses the operation of a weighing device (see id.).

In regard to claim 46, Pratt further discloses the operation of a temperature sensing device (see col. 29, lines 19-22).

In regard to claim 47, Pratt further discloses operation of a height sensing device (see col. 29, lines 2-5).

In regard to claim 48, Pratt further discloses the operation of sensing devices occurring automatically (see Abstract).

In regard to claim 49, Pratt further discloses the collected information being processed as set forth in the rejection of claim 1.

In regard to claim 50, Pratt further discloses the prediction of future trends based, at least in part, on said collected information (see col. 5, lines 48-55).

In regard to claim 51, Pratt further discloses providing the user with an assessment of a livestock operation based, at least in part, on said collected information (see id.).

In regard to claim 53, the method of Pratt as disclosed in the rejection of claim 2 anticipates the limitations of claim 42.

In regard to claims 235 and 236, Pratt further discloses a medical database (see col. 5, lines 29-33; col. 6, lines 34-57).

In regard to claim 237 and 238, Pratt further discloses associating at least one animal with a certification system and determining whether the at least one animal meets one or more standards associated with the livestock certification system (see col. 29, lines 36-45).

In regard to claim 239, Pratt discloses sorting (see abstract).

In regard to claim 240, Pratt discloses said collected information and said processed information including genetic information (see col. 28, line 60 – col. 29, line 18).

In regard to claim 241, Pratt further discloses an environmental management system (see col. 29, lines 19-22).

In regard to claim 242, the server disclosed by Pratt is configured to provide access to a risk management tool (see e.g. col. 29, lines 30-35).

In regard to claim 243, the claimed limitations are deemed anticipated by Pratt as applied in above claim rejections. Pratt discloses the system and method set forth

above, and further discloses a computer and software for carrying out the system and method.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 215, 218, 223-225, 227 and 228 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Application Publication No. 2002/0065765 to Shuler et al. (hereafter Shuler).

In regard to claim 215, Shuler discloses a method of enabling a user to manage a plurality of animals, said method comprising:

enabling a plurality of consumers to enter attributes relating to an individual animal of said plurality of animals (see [0008]);

collecting said entered attributes in a central database (see id.);

analyzing said collected attributes using an expert system (see id.);

providing said user with access to said analysis, said user managing said plurality of animals based at least in part on said analysis (see [0035]);

presenting said user with a plurality of product alternatives based, at least in part, on said analysis (see [0038]);

said collecting comprising collecting marketing information related to said animal product (see id.); and

providing at least a portion of said collected attributes to one or more components configured to perform benchmarking based on the provided collected attributes (see [0055]-[0057]).

In regard to claim 218, it is inherent within the teachings of Shuler that when a product provided by the disclosed producer is no longer offered, than that product would be referred to as "discontinued" or "not available."

In regard to claim 223, Shuler discloses a method of enabling a first user to manage information relating to a plurality of animals, said method comprising:

receiving a first communication from said first user, said communication requesting entry of animal attribute information into a central database (see [0027] and [0028]);

in response to said first communication, assigning an access indicator to said information (see [0029] and [0034]);

entering said information into said central database (see id.);

receiving a second communication from a second user having an access code that requests information in the central database (see [0034]-[0035]);

in response to said second communication, determining which access indicator is associated with said requested information (see [0045]);

limiting the quantity of requested information, for example by geography, to be provided to said second user based on said associated access indicator and said access code of said second user (see [0027]);

providing at least a portion of the requested information to a component configured to generate benchmarking information; and

automatically communicating inputted information to said second user (see Abstract).

In regard to claim 224, Shuler discloses the system and method as accessible by buyers and sellers having secure access through usernames and passwords (see e.g. [0024]). Therefore the information exchanged via the server is private.

In regard to claim 225, Shuler discloses the notification of a user when information is input into a database (see e.g. [0050]).

In regard to claim 227, Shuler further discloses allowing a user to select a portion of said inputted information to communicate to another user (see [0041]).

In regard to claim 228, Shuler further discloses providing the user with the capability to view a report of said information.

With respect to the above rejections, the Examiner has cited particular portions of the reference(s), and although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the Applicant consider each cited reference in its entirety as potentially teaching the limitations of the claimed invention.

Response to Arguments

In view of the Amendments filed June 5, 2008, the Claim Rejections under 35 U.S.C. 112 set forth in the Office Action mailed December 6, 2007, are hereby withdrawn.

Applicant's arguments filed June 5, 2008 have been fully considered but they are not persuasive. With respect to the Pratt reference, Applicant recites, "Pratt is silent as to 'providing at least a portion of said collected information to one or more components configured to perform benchmarking of the provided information.'" (Remarks, page 14). The Examiner contends that Pratt anticipates the noted limitation. Applicant's specification describes limitation as follows:

Tracking system 145 may promote sharing of information building of relationships between users (e.g., buyers and sellers) in the supply chain. At step 340, the tracking information stored in the central database may be available to one or more users in the supply chain. Tracking system 145 may also aid in benchmarking and predicting future trends.

(Specification, page 32, [0101]).

The Specification does not further define or qualify the limitation, and in particular, does not further qualify or define the term "benchmarking." In view of the Specification, the Examiner contends that one of ordinary skill in the art at the time of the invention would understand the term "benchmarking" to mean indicating or referencing a particular point or points in a group of multiple data points. This meaning is well known to those skilled in the art of data collection, wherein a "benchmark" usually indicates a data point against which other data points are referenced, such as a desired or optimal reference point, a forecasted reference point, or a mean reference point.

Accordingly, to anticipate the noted limitation, a prior art reference requires a component that is capable of indicating a particular data point from a group of data points.

Pratt teaches "a process and system for recording, measuring, sorting and tracking individual animals [that] includes a computer system for receiving, recording, and storing data by individual animal, and for calculating performance, marketing, sorting, costs and other information from such data by individual animal." (See col. 6, lines 34-39). Pratt further discloses that the process and system include "an integrated measuring, sorting, performance monitoring, cost allocation and market selection system that measures and monitors various characteristics of individual animals multiple times or in multiple ways . . ." (col. 6, lines 48-58). After the process and system of Pratt collect multiple data points, the data points are provided to a component of the process or system that is configured to indicate a particular data point from among the several data points collected. Pratt discloses, "From the calculations and plotting it is determined, in the example, that the point P4 on the backfat curve should be selected for shipment of the animal. This is at 140 days into the feeding period, the most economical point for shipping. Beyond that point, the animal's backfat will exceed 0.7 inches, resulting in the animal's carcass being degraded and thus becoming less valuable." (col. 20, lines 39-56). Thus, Pratt teaches the collection of several data points, so that one of those data points can be indicated as the optimal time to ship an animal's carcass. The Examiner contends that this disclosure anticipates the claimed

"providing at least a portion of said collected information to one or more components configured to perform benchmarking of the provided information."

With respect to the Shuler reference, Applicant argues that "Shuler is silent as to 'providing at least a portion of said collected information to one or more components configured to perform benchmarking of the provided information.'" (Remarks, page 15). The Examiner contends that Shuler meets this limitation. Shuler explicitly discloses "Benchmarking Services" as an element of his system and method. The description of the "Benchmarking Services" anticipate the noted limitation as that limitation would be understood by one having ordinary skill in the art of data collection (see [0055]-[0057]).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JARED W. NEWTON whose telephone number is (571)272-2952. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/
Supervisory Patent Examiner, Art Unit 3693

JWN
August 27, 2008

Application Number**Application/Control No.**

10/071,437

**Applicant(s)/Patent under
Reexamination**

STROMAN ET AL.

Examiner

JARED W. NEWTON

Art Unit

3693